

## Table of Contents

Section 1. Authority .....	1
Section 2. Amendment .....	1
Section 3. Powers of the Zoning Board of Adjustment .....	1
Section 4. Membership .....	1
Section 5. Officers .....	2
Section 6. Disqualification of ZBA Members .....	2
Section 7. Meetings .....	3
Section 8. Records .....	3
Section 9. Joint Meetings and Hearings .....	4
Section 10. Application and Decision Process .....	4
10.1 Appeal from Administrative Decision .....	5
10.2 Special Exception .....	5
10.3 Variance .....	5
10.4 Equitable Waiver of Dimensional Requirements .....	5
10.5 Request for Rehearing .....	5
10.6 Notification of Public Hearing .....	6
10.7 Public Hearing .....	6
10.8 Deliberations .....	7
10.9 Decision .....	8
10.10 Continuances .....	9

**Town of Alton  
Zoning Board of Adjustment  
By-Laws**

*Section 1. Authority*

- 1.1 These by-laws are adopted under the authority of NH RSA 676:1 and the Zoning Ordinance of the Town of Alton, NH.
- 1.2 These by-laws shall become effective upon a majority vote of the ZBA on the date they are voted on.

*Section 2. Amendment*

- 2.1 These by-laws may be amended by a majority vote of the ZBA provided that such amendment is read at two successive meetings immediately preceding the meeting at which the vote is to be taken.

*Section 3. Powers of the Zoning Board of Adjustment*

- 3.1 The ZBA shall have the powers described in NH RSA 674:33, 674:33-a, and the Zoning Ordinance of the Town of Alton, NH.
- 3.2 No member of the ZBA, including officers, shall have any decision making authority as an individual, and no decision shall have any validity if made outside of a duly posted, public meeting of the ZBA.

*Section 4. Membership*

- 4.1 The Board of Selectmen shall appoint members to the ZBA in accordance with NH RSA 673:3.
- 4.2 The terms of ZBA members shall be three (3) years in accordance with RSA 673:5.
- 4.3 The Board of Selectmen shall appoint alternate members to the ZBA in accordance with NH RSA 673:6.

- 4.4 Alternate members of the ZBA shall be designated by the ZBA chairman to act in place of an absent regular member, or in place of a regular member who is disqualified to act on a case. Such alternate shall be in all respects a full member of the board while so sitting.

### *Section 5. Officers*

- 5.1 A chairman shall be elected annually in the month of April, or at any other time as may be necessary, upon a majority vote of the ZBA members. The chairman shall preside over all ZBA meetings and hearings; affix his/her signature in the name of the ZBA; and appoint duly qualified alternate members to serve in the place of absent or disqualified members.
- 5.2 A vice-chairman shall be elected annually in the month of April, or at any other time as may be necessary, upon a majority vote of the ZBA members. The vice-chairman shall preside in the absence of the chairman and shall have the full powers of the chairman on matters which come before the board during the absence of the chairman.
- 5.3 A clerk shall be elected annually in the month of April, or at any other time as may be necessary, upon a majority vote of the ZBA members. The clerk shall maintain a record of all meetings, transactions, and decisions of the ZBA, and shall perform other duties as the ZBA may direct by resolution. Since clerical assistance is provided by the town to the ZBA, the Board may delegate the clerk's duties to the appointed secretary.
- 5.4 All officers shall serve for a one-year term, beginning when elected in April and ending on March 31<sup>st</sup>. Officers elected mid-term to fill vacancies shall serve for the remainder of that term. Both the Chairman and the officers shall be eligible for re-election, in accordance with RSA 673:9.

### *Section 6. Disqualification of ZBA Members*

- 6.1 If any ZBA member finds it necessary to disqualify him/herself from participating in a particular case, as provided in NH RSA 673:14, he/she shall notify the chairman as soon as possible so that an alternate may be requested to sit in his/her place.
- 6.2 When there is uncertainty as to whether a member should be disqualified from a particular case, that member or another member may request the board to vote on

the question of disqualification. Any such request must be made before the public hearing on the case gets underway. The vote shall be advisory and non-binding.

- 6.3 When a ZBA member is disqualified, it shall be announced by either the chairman or the member disqualifying him/herself before the beginning of the public hearing on the case. The disqualified member shall not sit at the board table during the public hearing or during deliberations on the case.
- 6.4 If a member is disqualified to act on any particular case, the Chairman shall designate an alternate member to act in his/her place, in accordance with RSA 673:11.

### *Section 7. Meetings*

- 7.1 **Schedule:** Regular meetings shall be held at the Alton Town Hall at 7:00 pm on the first Thursday of each month, or as may be scheduled by the ZBA. Other meetings may be called at any time by the chairman or by a majority of the ZBA members, provided notice has been given to the public and to each ZBA member and alternate member at least forty-eight (48) hours in advance of the meeting. All meetings shall be held and posted in accordance with the RSA 91-A and RSA 676:7, as amended.
- 7.2 **Quorum:** A quorum for all meetings of the ZBA shall be three members, including alternate members designated to serve in place of an absent or disqualified member. A full compliment of the ZBA shall consist of five members.
- 7.3 In the absence of the chairman, the vice-chairman shall preside over the meeting. In the absence of both the chairman and the vice-chairman, the member of the ZBA with the most seniority on the board shall preside until a majority of the members present elect an acting chairman.
- 7.4 The order of business for regular meetings shall be as follows, except that the ZBA may amend the agenda of any meeting by a majority vote of the members present.
  - Attendance roll call
  - Statement of Procedure for Hearings
  - Public Hearings — new cases
  - Continued cases
  - Other business
    - General communications
    - Review and approval of minutes of previous meeting
  - Adjournment

### *Section 8. Records*

The records of the board shall be kept by the clerk with assistance from the Land Use and Property Records Department staff, and shall be made available for public inspection in the Land Use and Property Records Department in the Town Hall in accordance with statutory requirements.

- 8.1 Minutes of all meetings shall be placed on file, in accordance with RSA 91-A, as amended.
- 8.2 The Zoning Board shall issue a final written decision in accordance with RSA 676:3, as amended.

### *Section 9. Joint Meetings and Hearings*

- 9.1 The Zoning Board may hold joint meetings or hearings with the Planning Board, in accordance with RSA 676:2, as amended.
- 9.2 Joint business meetings may be held at any time when called jointly by the chairmen of the two boards.
- 9.3 A public hearing on any appeal to the ZBA will be held jointly with the Planning Board only under the following conditions: The joint public hearing must be a formal public hearing on applications to both boards regarding the same subject matter; and the Planning Board chairman shall chair the joint hearing; and the provisions covering the conduct of public hearings as set forth in these bylaws, together with additional provisions of the Planning Board bylaws shall be followed; and the Planning Board shall concur in these conditions.

### *Section 10. Application and Decision Process*

All applications to the ZBA shall be made on forms provided by the ZBA, and shall be submitted to the Land Use and Property Records Department. Applications received seventeen (17) days prior to a scheduled meeting will be scheduled for the next scheduled meeting. A schedule of meeting dates and deadlines is available in the LUPR Department. Applications will be processed only if they are accompanied by a list of abutters and payment of all required fees.

- 10.1 Appeal from Administrative Decision

An applicant may appeal an administrative decision made by the Town's Code Official provided the application for appeal is submitted within thirty (30) days of the date the applicant should have had reasonable knowledge of the Code Official's decision. A copy of the Code Official's written decision must be submitted along with the application. When such an application is submitted, the Code Official shall furnish a copy of the entire file concerning the matter to the ZBA for inclusion into the ZBA records prior to the scheduled hearing.

10.2 Special Exception

An applicant may apply to the ZBA for a special exception as allowed in the Alton zoning ordinance. The ZBA may grant special exceptions only in accordance with Section 420 of the zoning ordinance. The ZBA may, upon a majority vote, request additional information and/or a legal opinion on any special exception request.

10.3 Variance

An applicant may apply to the ZBA for a variance to the terms of the zoning ordinance. The ZBA may grant variances only in accordance with Section 430 of the Alton zoning ordinance. The ZBA may, upon a majority vote, request additional information and/or a legal opinion on any variance request.

10.4 Equitable Waiver of Dimensional Requirements

An applicant may apply to the ZBA for an equitable waiver of dimensional requirements, and the ZBA shall grant such equitable waivers only in accordance with RSA 674:33-a.

10.5 Request for Rehearing (RSA 677:2 and 677:3)

The Selectmen, or any party to the action, or any person directly affected by a decision or order of the ZBA, may submit a request for a rehearing within thirty (30) days of the decision, in accordance with RSA 677:2, as amended. The request must include every ground upon which it is complained that the decision or order is unlawful or unreasonable. The ZBA shall consider the request within thirty (30) days of receipt of the request for rehearing. The ZBA shall only consider requests for rehearing at duly posted public meetings, but notification to abutters and the applicant is not required. In the event that the ZBA grants the request for rehearing, said rehearing shall be scheduled within thirty (30) days (normally the following month's meeting). Note: under NH state law, a request for a rehearing is a pre-requisite for judicial action.

10.6 Notification of Public Hearing

Notification consists of notice to the general public and to those directly affected by an application, and shall be made as follows:

- 10.6.1 Notice to the general public shall be made by posting in at least two public places, one of which shall be the Town Hall, at least five (5) days prior to the hearing. In addition, the notice shall be advertised in one newspaper with general circulation in the Town of Alton, at least five (5) days prior to the hearing.
- 10.6.2 Notice to those directly affected by an application (including the applicant, the owner of record of abutting properties, and the owner of record of properties within 200 feet of the subject property) shall be mailed by certified mail at least five (5) days prior to the hearing.
- 10.6.3 The notice shall include the time and place of the hearing, the name of the applicant, what the application is for (including the sections of the zoning ordinance that apply), and the location of the property for which the application is being made.
- 10.6.4 The ZBA may distribute notification of hearings to members of the ZBA, the Planning Board, the Board of Selectmen, the Town Attorney, the Code Official, and any other person or Town Official deemed by the ZBA to have an interest in the proceedings.

#### 10.7 Public Hearing

- 10.7.1 Prior to the opening of each hearing, the ZBA Clerk shall read the notice for the application.
- 10.7.2 The Chairman will assign alternates to sit in place of any ZBA member who is disqualified from hearing the particular case. (See Section 6 of these by-laws.)
- 10.7.3 The Chairman opens the hearing.
  - 10.7.3.1 Members of the board may ask questions at any point during testimony.
  - 10.7.3.2 Each person who testifies shall state his name and address and indicate whether he is a party to the case or an agent or counsel of a party to the case.
  - 10.7.3.3 Any party to the case who wants to ask a question of another party to the case must do so through the Chairman.

- 10.7.4 The Chairman calls the applicant to present his case.
- 10.7.5 Those appearing in favor of the case shall be allowed to speak.
- 10.7.6 Those appearing in opposition to the case shall be allowed to speak.
- 10.7.7 The applicant and those appearing in favor shall be allowed to speak in rebuttal.
- 10.7.8 Those in opposition shall be allowed to speak in rebuttal.
- 10.7.9 The Chairman will provide an opportunity for any additional testimony from anyone before declaring the hearing closed. Once the hearing is declared closed, the Chairman will announce the date upon which the case will be continued, along with the time and place for the hearing, if so voted by the members of the ZBA.

#### 10.8 Deliberations

- 10.8.1 All deliberations shall take place in a duly posted public meeting. A vote to confer with the Town Attorney must be done at a duly posted public meeting.
- 10.8.2 There shall be no public participation allowed during the ZBA's deliberations.
- 10.8.3 The board may vote to declare a finding of fact on any subject matter which is cause for dispute.
- 10.8.4 The board shall deny an application that is found to be incomplete or deficient based on testimony presented during the hearing.
- 10.8.5 Upon a majority vote of the board, the deliberations may be recessed and the public hearing re-opened.

#### 10.9 Decision

- 10.9.1 All decisions of the ZBA on Appeals, Special Exceptions, Variances, or Equitable Waivers shall be made during the ZBA's deliberations, upon recognition by the Chairman of a motion which is duly seconded, followed by discussion and a vote.



- 10.9.2 A decision to reverse any action of the Code Official shall require the concurring vote of at least three (3) members of the board.
- 10.9.3 A decision in favor of the applicant on any matter on which the board is required to act upon shall require the concurring vote of at least three (3) members of the board.
- 10.9.4 All decisions of the ZBA shall be made within thirty-one (31) days of the closing of the public hearing.
- 10.9.5 All decisions shall be set forth in writing, in accordance with RSA 676:3, as amended and shall be placed on file in the Land Use and Property Records Department. If the application is denied, the reasons for denial shall be stated along with the decision.

#### 10.10 Continuances

- 10.10.1 It shall be policy of the Town of Alton Zoning Board of Adjustment to permit the scheduling of up to three (3) hearings on any single application. That is, an applicant is entitled to schedule an initial hearing and two (2) continuances on any particular application. If a hearing or continuance is scheduled and the applicant fails to appear, the scheduled meeting shall count toward the limit of three (3).
- 10.10.2 If the scheduling of further hearings beyond the three permitted should be necessary, the applicant must file a new application and pay all associated fees. The purpose of this policy is to protect the important rights of applicants, abutters, and other interested parties, and to ensure that expenses incurred by the Town are properly reimbursed.
- 10.10.3 For good cause shown, the ZBA may, by majority vote, waive this policy in specific cases.

These By-Laws were read and discussed at the April 10, 1997 and May 8, 1997 Zoning Board of Adjustment meetings, and were adopted by a majority vote (4-0) on May 8, 1997.

Amendments were read at the January 8, 2009 Zoning Board of Adjustment meeting and were adopted by a unanimous voice vote on January 8, 2009.

---

Timothy Morgan  
Chairman  
Zoning Board of Adjustment

\*Amended May 8, 1997, July 10, 1997, October 7, 1999 and June 1, 2000.